IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

THE HON'BLE SRI JUSTICE GOPALAKRISHNA TAMADA

Writ Petition Nos.26373 and 29032 of 1997

Dated: 09-02-2007

W.P.No.26373 of 1997
Between:

Smt. P. Seetha Mahalakshmi,
w/o late Venkata Narasimha Rao,
Hindu, aged about 73 years,
R/o Katrenipadu,
Musunuru Mandal,
Krishna District.

... Petitioner

and

1. The District Collector,
   Krishna District,
   Machilipatnam and another.

... Respondents

W.P.No.29032 of 1997
Between:

The Mandal Revenue Officer,
Musunuru Mandal,
Krishna District.

... Petitioner

and

1. Parvathaneni Seetha Mahalakshmi,

w/o late Venkata Narasimha Rao,
r/o Katrenipadu village,
Musunuru Mandal,
Krishna District and another.

... Respondents

ORDER:

One P. Seetha Mahalakshmi w/o late Venkata Narasimha Rao, r/o Katrenipadu, Musunuru Mandal, Krishna District states that she is the owner of an extent of Ac.19-00 of land in Katrenipadu village in part of R.S.No.454/1. According to her, she was inducted into possession as early as on 07-03-1941 and a patta was also granted in her favour by the then Zamindar on 02-12-1943. Thereafter, she applied before the Settlement Officer, Eluru for grant of ryotwari patta under Section 11(a) of the Andhra Pradesh (Andhra Area) Estates (Abolition and Conversion into Ryotwari) Act, 1948 (for short, 'the Act') but the said Settlement Officer rejected her claim holding that the land in question bearing S.No.454/1 is a land belonging to the forest department, which is part of the area of 2,930-00 acres taken over by the forest department. Against the said order, dated 27-11-1985 passed by the Settlement Officer; she preferred a revision before the Director of Settlements, Hyderabad and the Director of Settlements dismissed the said revision. As against the said order, dated 27-08-1991, she preferred a second revision before the Commissioner of Survey, Settlements and Land Records, Andhra Pradesh, Hyderabad and the Commissioner by his order, dated 17-10-1994 while reversing the orders passed by the Settlement Officer as confirmed by the Director of Settlements, granted ryotwari patta in favour of her holding that she is entitled for grant of ryotwari patta, as she was able to

produce her possession prior to the crucial date 01-7-1945. As the respondents have not implemented the orders of the Commissioner of Survey, the said Seetha Mahalakshmi filed W.P.No.26373 of 1997 seeking *mandamus* declaring the in action of the respondents in implementing the orders of the Commissioner of Survey, Settlements and Land Records, Andhra Pradesh, Hyderabad. Questioning the very same order, the Mandal Revenue Officer, Musunuru, Krishna District filed W.P.No.29032 of 1997 seeking to quash the said order. Thus, both the writ petitions are listed before me.

2. Heard learned counsel for the parties.

3. One of the main contentions raised by the learned counsel appearing for Smt. P. Seetha Mahalakshmi is that in identical circumstances, for an extent of Ac.468-00 of land, ryotwari pattas were granted and this Court directed the authorities to implement the said orders passed by the Director of Settlement and in that context he has drawn my attention to the order of this Court in W.A.No.1344 of 2000 dated 10-04-2003.

4. In the said matter, the Divisional Forest Officer filed W.P.No.19128 of 1998 questioning the orders passed by the Commissioner of Survey and Settlements and a learned Single Judge of this Court at the stage of admission disposed of the said writ petition on 30-03-2000 with a direction to the authorities to implement the said orders passed by the Commissioner of Survey and Settlements. In the said order, i.e. in W.A.No.1344 of 2000, dated 10-04-2003, the Division Bench observed that the concerned authority i.e. the Divisional Forest Officer may approach original authority i.e. the Settlement Officer to review the order passed on 30-01-1981 or to avail such remedies as

may be available in law. It is further observed by the Division Bench that it is always open even to the revisional authority to *suo motu* invoke the revisional jurisdiction if the conditions precedent for exercise of *suo motu* revisional jurisdiction are satisfied. It is further observed that in any such event,

the order passed by the Court including the order directing the implementation of the orders of the Settlement Officer, dated 30-01-1981 shall not come in the way of the revisional authority exercising his *suo motu* revisional jurisdiction. It is also observed in the said order that the Divisional Forest Officer is at liberty to invoke his jurisdiction and authority under the Forest Conservation Act and such of the Acts for the time being in force.

5. Having regard to the facts and circumstances of the case and considering the submissions made by the learned counsel on either side, this Court is of the view that these writ petitions also can be disposed of in similar lines.

6. Accordingly, the writ petitions are disposed of with a direction to the authorities i.e. the Mandal Revenue Officer, Musunuru Mandal, Krishna District and the District Collector, Krishna District, Machilipatnam

to implement the order dated 17-10-1994 passed in P2/1853/91 by the Commissioner, Survey, Settlements and Land Records, Andhra Pradesh, Hyderabad within a period of three months from the date of receipt of a copy of this order. No costs.

However, it is made clear that if the Mandal Revenue Officer, has any grievance, he can move the original authority i.e. the Settlement Officer to exercise his *suo motu* revisional jurisdiction and pass appropriate orders and similarly he may also approach the

Divisional Forest Officer and file an application for invoking his jurisdiction and authority under the Forest Conservation Act and such of the Acts for the time being in force.

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JUSTICE GOPALAKRISHNA TAMADA

Dt.09-02-2007
Note: Issue C.C. by 10 days.
B/o
GLV